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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,464	10/22/2002	Mark A. Lillis	PES-0077	5642

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EXAMINER

WILLS, MONIQUE M

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/065,464

Applicant(s)

LILLIS, MARK A.

Examiner

Monique M. Wills

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 6-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/2/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election of Group I, claims 1-5, in the reply filed on October 10, 2005 is acknowledged. Although the applicant specified that the election is made with traverse, applicant did not distinctly and specifically point out the supposed errors in the restriction requirement. Therefore, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Information Disclosure Statement

The information disclosure statements filed December 2, 2002 has/have been received and complies with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. Accordingly, the information disclosure statement is being considered by the examiner.

Allowable Subject Matter

Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The instant claim would be allowable over the prior art of record, because the prior art is silent to an electrochemical cell system in accordance with claim 1, further including a load cell with a tensile force measurement device for measuring a weight of the fluid containment vessel.

Claim Rejections - 35 USC § 103

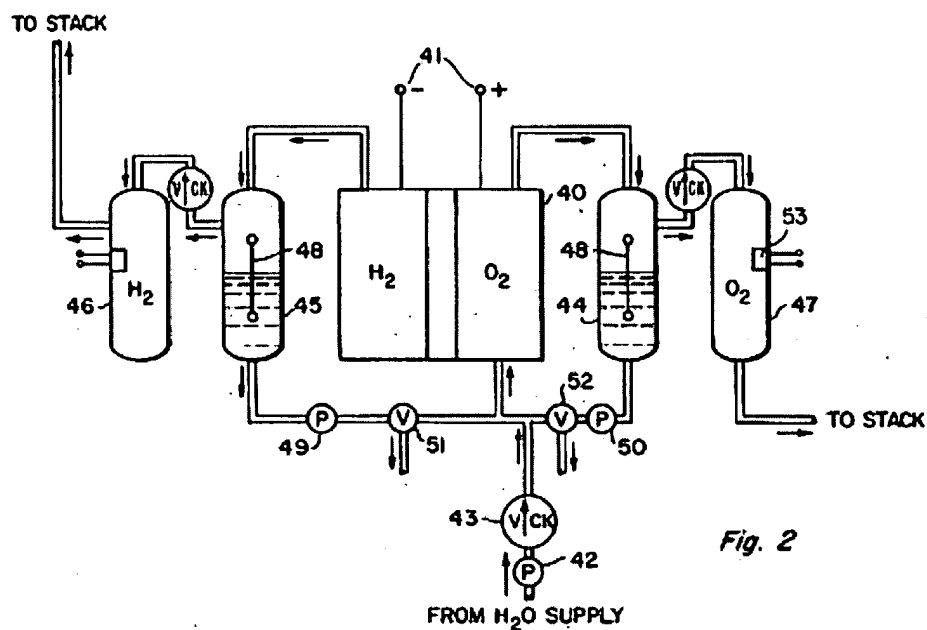
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-3 & 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over McElroy et al. U.S. Patent 4,657,829 in view of Murphy et al. U.S. Patent 6,040,072.

With respect to claim 1, McElroy teaches an electrochemical cell system comprising: an electrochemical cell stack (40); a fluid containment vessel (44, 45) comprising a vessel inlet in fluid communication with a stack (40) outlet; and a vessel outlet (at 50) in fluid communication with the stack (40) inlet; wherein the vessel outlet comprises an outlet control device (52). See Figure 2. As to claim 5, the system further contains a float (48) translatably disposed in the fluid containment vessel. See Figure 2.

*Fig. 2*

McElroy does not expressly disclose: an inlet control device (claim 1); a load cell disposed in operable communication with the fluid containment vessel

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(claim 1); a second load cell(claim 2); or a load cell with a compressive force measurement device (claim 3).

However, Murphy teaches that it is conventional to employ load cells to obtain real time feedback on changes in the load brought about by aging of materials (col. 8, lines 45-55). As to claim 3, the load cells determine compressive force measurements (col. 8, lines 20-25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to employ the load cell of Murphy in the electrochemical system of McElory to obtain real time feedback on changes in load brought about by aging materials (claim 1).

Concerning an inlet control device (claim 1), it would have been obvious to one of ordinary skill in the art to employ an inlet control device to manage inlet flow to the fluid containment vessel. As illustrated in McElory, the skilled artisan practices employing flow control devices throughout electrochemical systems.

With respect to claim 2, it would have been obvious to employ multiple load cells, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

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Conclusion

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Monique Wills whose telephone number is (571) 272-1309. The Examiner can normally be reached on Monday-Friday from 8:30am to 5:00 pm.

If attempts to reach Examiner by telephone are unsuccessful, the Examiner's supervisor, Michael Barr, may be reached at 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MW

11/22/05

MICHAEL BARR
SUPERVISORY PATENT EXAMINER

A handwritten signature in black ink, appearing to read 'Michael Barr', is written over the printed name and title.